

ITEM NO.13

COURT NO.3
(HEARING THROUGH VIDEO CONFERENCING)

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Cr1.) No.1348/2020

(Arising out of impugned final judgment and order dated 21-11-2019 in WP No.51012/2019 passed by the High Court Of Karnataka At Bengaluru)

CENTRAL BUREAU OF INVESTIGATION

Petitioner(s)

VERSUS

BASAVARAJ SHIVAPPA MUTTAGI & ANR.

Respondent(s)

(IA No.48688/2020 - FOR CLARIFICATION/DIRECTION; IA No.26153/2020 - FOR EXEMPTION FROM FILING O.T.; IA No.26155/2020 - FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES; and, IA No.39663/2020 - FOR VACATING STAY)

WITH

SLP(Cr1) No.2534/2020 (II-C)

(IA No.41454/2020 - FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

W.P.(Cr1.) No.252/2021 (X)

(FOR ADMISSION; and, IA No.67948/2021 - FOR EXEMPTION FROM FILING O.T.)

W.P.(Cr1.) No.271/2021 (X)

(FOR ADMISSION; and, IA No.71421/2021 - FOR EXEMPTION FROM FILING O.T.)

SLP(Cr1) No.4739/2021 (II-C)

(FOR ADMISSION and I.R.; and, IA No.75963/2021 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 11-08-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE AJAY RASTOGI

Counsel for the Parties:

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Siddharth Bhatnagar, Sr. Adv.
Mr. Aman Preet Singh Rahi, Adv.
Mr. Sharanagouda Patil, Adv.
Mr. Aditya Sidhra, Adv.
Mr. Nadeem Afroz, Adv.
Mr. Girish, Adv.
Mr. A. Venayagam Balan, AOR

Mr. Kapil Sibal, Sr. Adv.
Mr. Sharanagouda Patil, Adv.
Mr. Girish G.N., Adv.
Pasha, Adv.
Ms. Supreeta Sharanagouda, AOR

Mr. Devadatt Kamat, Sr. Adv.
Mr. Sharanagouda Patil, Adv.
Mr. Rajesh Inamdar, Adv.
Mr. Neha Sing, Adv.
M/s. S-Legal Associates, AOR

Mr. Tushar Mehta, SG
Mr. S.V. Raju, ASG
Mr. K.M. Nataraj, ASG
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Akshay Amritanshu, Adv.
Mr. Rajat Nair, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Tushar Mehta, SG
Mr. K.M. Nataraj, ASG
Mr. Shubhranshu Padhi, AOR
Mr. Ashish Yadav, Adv.
Mr. Rakshit Jain, Adv.
Mr. Vishal Banshal, Adv.

Mr. H. Chandra Sekhar, AOR
Ms. Manimala Roy, Adv.
Mr. Chandrakanth Patil, Adv.

UPON hearing the counsel the Court made the following
O R D E R

SLP (Cr1.) No.1348 of 2020

This petition at the instance of the Central Bureau of Investigation ('the CBI', for short) challenges the interim order dated 21.11.2019 passed by the High Court of Karnataka at Bengaluru

in Writ Petition No.51012 of 2019.

The aforesaid writ petition filed by the original accused no.1 takes exception to the proceedings dated 06.09.2019 in terms of which case relating to the murder of one Yogesh Gowda, Member of Dharwad Zilla Panchayat was made over by the State Government to the CBI.

While issuing notice in said writ petition, a Single Judge of the High Court granted interim stay with regard to the effect and operation of the proceedings dated 06.09.2019. In effect, despite the matter having been made over, the CBI could not go ahead with the investigation.

Being aggrieved, the instant Special Leave Petition has been preferred by the CBI.

By order dated 20.02.2020, this Court issued notice in the Special Leave Petition and as an interim measure, directed that there would be stay of operation of the order passed by the High Court. Resultantly, the investigation was conducted and carried out by the CBI.

We have been given to understand that after such investigation was carried out, a Challan was filed by the CBI on 02.05.2020 adding Accused Nos.7 to 14 in the array of the accused. Cognizance in respect of first Challan filed by the CBI was taken on 02.05.2020 itself.

Thereafter, further Challans have been filed on behalf of the CBI adding four more persons as accused. Since Accused Nos.19 and 20 are public servants, sanction to prosecute them has also been obtained by the CBI.

Cognizance in respect of said Challans has been taken by the concerned Court vide order dated 07.06.2021 and the case now stands registered as against Accused Nos.15 to 17 as well.

It thus emerges:

- a) The main issue as raised in the writ petition is not yet gone into by the High Court.
- b) The matter in this Court arises from an interim order.
- c) As a result of the interim order passed by this Court, the aforesaid developments have already taken place.
- d) The interim order passed by this Court on 20.02.2020 continues to operate.

In the aforesaid circumstances, without going into the merits or demerits of the rival contentions, we request the High Court to take up Writ Petition No.51012 of 2019 for disposal as early as possible and preferably within two months from the receipt of copy of this order. Considering the issues raised in the matter, we request the Chief Justice of the High Court to assign the matter to a Division Bench of the High Court, if the relevant Rules so permit.

Pending such consideration, the interim order passed by this Court on 20.02.2020 shall continue to operate.

We shall not be taken to have expressed any opinion on the merits of the matter and all contentions as are available to the parties are left open to be advanced before and considered by the High Court.

With these observations, the Special Leave Petition (Cr1.) No.1348 of 2020 stands disposed of.

Pending applications, if any, also stand disposed of.

SLP (Cr1) No.2534 of 2020

This petition at the instance of State of Karnataka challenges the same order dated 21.11.2019 passed by the High Court of Karnataka at Bengaluru in Writ Petition No.51012 of 2019.

In view of the aforesaid order passed in SLP (Cr1.) No.1348 of 2020, no separate orders are called for in this Special Leave Petition.

This Special Leave Petition is disposed of in terms of the order passed in SLP (Cr1.) No.1348 of 2020.

Pending applications, if any, also stand disposed of.

W.P. (Cr1.) No.252/2021; and, W.P. (Cr1.) No.271/2021

Since the prayers made in the writ petitions touch upon the very same issues which are pending consideration in Writ Petition No.51012 of 2019, Mr. Kapil Sibal and Mr. Devadatt Kamat, learned Senior Advocates appearing for the petitioners in these two writ petitions, pray for and are granted liberty to withdraw the writ petitions, with further liberty to file such appropriate proceedings as are open to the parties in law.

The writ petitions are, accordingly, dismissed as withdrawn with aforesaid liberty.

SLP (Cr1) No.4739/2021

Leave granted.

The appeal is allowed, in terms of the Signed Order placed on the file.

Pending applications, if any, also stand disposed of.

**(MUKESH NASA)
COURT MASTER**

**(BEENA JOLLY)
BRANCH OFFICER**

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.807 OF 2021
(Arising out of S.L.P. (Criminal) No.4739 of 2021)

VINAY RAJASHEKARAPPA KULKARNI ..Appellant

VERSUS

CENTRAL BUREAU OF INVESTIGATION ..Respondent

O R D E R

Leave granted.

This appeal challenges the order dated 24.05.2021 passed by the High Court of Karnataka at Bengaluru, rejecting Criminal Petition No.2601 of 2021 preferred by the present appellant.

The relevant facts are set out in brief in the order passed this day in S.L.P.(Cr1.) No.1348 of 2020.

The appellant is accused No.15 in the instant proceedings and was taken in custody on 05.11.2020; and since then he continues to be in custody.

The application for bail preferred by the appellant in the High Court having been rejected, the instant appeal has been preferred.

We have heard Mr. Mukul Rohatgi, learned Senior Advocate for the appellant; Mr. S.V. Raju, learned Additional Solicitor General for the Central Bureau of Investigation; and Mr. K.M. Nataraj, learned Additional Solicitor General for the State of Karnataka.

Considering the facts and circumstances on record, we deem it appropriate to pass the following directions:

- I. The appellant shall be produced before the concerned Trial Court within three days from today and the Trial Court shall release the appellant on bail on such conditions as the Trial Court may deem appropriate to impose. Such conditions shall however include the following:
 - i. The appellant shall not in any way impede the conduct and proceedings of the investigation and the trial;
 - ii. The appellant shall not directly or indirectly get in touch with any of the witnesses nor shall he try to influence any such witnesses.
 - iii. The appellant shall not enter the District Dharwad till further orders to be passed by the Trial Court.
 - iv. The appellant shall mark his presence in the office of ACP CBI Unit, Bengaluru, twice a week.
- II. Any infraction or violation of the above conditions shall entail in cancellation of bail.

Needless to say that grant of bail in favour of the appellant shall not be construed as reflection by this Court on merits of the

matter, which shall be gone into independently by the Trial Court at every stage of the proceedings.

With the aforesaid directions, the appeal is allowed.

.....J.
[UDAY UMESH LALIT]

.....J.
[AJAY RASTOGI]

NEW DELHI;
AUGUST 11, 2021.